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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,504	01/22/2004	Deborah K. Avis	P/3426-70	7249
2352 7590 05/07/2008 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				
EXAMINER				
TRAN, CHUC				
ART UNIT		PAPER NUMBER		
2821				
MAIL DATE		DELIVERY MODE		
05/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/763,504

Applicant(s)

AVIS, DEBORAH K.

Examiner

CHUC D. TRAN

Art Unit

2821

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12 and 15 is/are rejected.
- 7) ☒ Claim(s) 13-14, 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Response to Arguments***

1. Applicant's arguments filed 9/11/07 have been fully considered but they are not persuasive.

Applicant argues in claim 12 that prior art of Bruwer and Irvin et al does not render the resultant combination obvious. The Examiner respectfully disagrees. The combination a motion sensor (motion switch) of Irvin et al would have been beneficial to improve the maximum battery life See (Irvin et al Col. 2, Line 10)

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Di Troia (USP. 5,657,417).

Regarding claim 15, Di Troia disclose in Fig. 1-3, a control device (Fig. 1) comprising a self-contained electrical circuit (12) adapted to be removably inserted in series with a battery power source (28) (Fig. 2) for a battery powered load device (26) (Fig. 3) including a timer (61) (Fig. 3) that automatically times out and shuts off the battery power to the load device at a predetermined time after the load device is turned on (Col. 5, Line 53) and (Abstract).

Claim Rejections - 35 USC § 103

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruwer in view of Irvin et al.

Regarding claim 12, Bruwer disclose in Fig. 8 a small thin disc (803) configured and sized for insertion in a battery cavity between a load device (105) and the battery (101) (Bruwer, Fig. 8A) (Col. 10, Line 2) having an automatic shut off timing device by a switch (102) (Bruwer, Fig. 8A) (Bruwer, Col. 8, Line 26) (Bruwer, Col. 10, Line 37) and (Bruwer, Abstract) . However, Bruwer is silent on a limitation of a motion sensor (motion switch). Irvin disclose a control device in Fig. 4, comprising a motion sensor (motion switch) (220) (Irvin, Fig. 4) (Irvin, Col. 5, Line 54). Thus, it would have been obvious to one of ordinary skill in the art to modify Bruwer's control device by combining the motion sensor (motion switch) as taught by Irvin et al. Combining motion sensor (motion switch) of Irvin et al for capabilities to maximize battery life would have been obvious to one of ordinary skill.

Allowable Subject Matter

6. Claims 13-14 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Inquiry

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Art Unit: 2821

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUC D. TRAN whose telephone number is (571)272-1829.

The examiner can normally be reached on M-F Flex hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Owens can be reached on (571) 272-1662. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TC

April 26, 2008

/Douglas W Owens/
Supervisory Patent Examiner, Art Unit 2821